

## **REMARKS**

The Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and the reasons that follow.

### **I. Status of the Claims & Claim Objections**

Independent claim 11 is amended per the Office's suggestion (Office Action, p. 4) to recite that the polypeptide is isolated; support therefor can be found on p. 3, lines 30-33 of the present Specification as filed. Claim 11 is also amended to recite that the amino acid sequence in (a) is any one of SEQ ID NOs: 1 and 3 to 12 and to delete the recitation (c). Claims 12, 15, and 17-21 are amended to correct dependency informalities. Claim 23 is amended to recite a specific embodiment of the polypeptide and to correct its dependency. Claim 25 is further amended to replace the term "non human" with "an animal"; support therefor can be found in, *inter alia*, p. 12, line 35 to p. 13, line 1 of the present Specification. Claims 1-10 and non-elected claims 13-14 and 24 are cancelled, and the Applicant reserves the right to pursue the subject matter of the cancelled claims in a continuation and/or divisional application. Non-elected claims 26-30 (Group V) remain withdrawn, and claims 25-26 and 28 are amended parallel to claim 23 to recite a specific embodiment of the polypeptide, and claim 30 is amended to correct a minor informality. Because the claims in Group V are related to a method of using the elected claimed polypeptides, the Applicant respectfully requests that the claims in Group V be rejoined with the currently pending claims upon allowance of the pending claims pursuant to 37 C.F.R. § 1.104. No new matter is introduced, and claims 1-12, 15-23, and 25 are under examination on their merits.

The Applicant further respectfully submits that the claim objections are rendered moot by the foregoing amendments.

### **II. Claims Rejections – 35 U.S.C. §§ 101, 112**

Claims 1-6 and 11 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claims 1-4 and 6 are rejected under 35 U.S.C. § 112, ¶ 2, as allegedly

being indefinite. Claims 1-6 and 11 are rejected under 35 U.S.C. § 112, ¶ 1, as allegedly failing to comply with the written description requirement.

While not acquiescing to the grounds of the rejections and merely to advance the prosecution, the Applicant hereby amends or cancels the present claims. The Applicant respectfully submits that the rejections are rendered moot by the amendments.

### **III. Claim Rejections – 35 U.S.C. § 102**

Claims 1-6 and 11 are rejected under 35 U.S.C. § 102 as allegedly being anticipated by *Nature*, 1996; 380 (6572): 364-366 (“Pasqualini”) and US 2007/0254316 (“Rodriguez”). The Applicant respectfully traverses these rejections.

While not acquiescing to the grounds of the rejections, the Applicant hereby cancels claims 1-10 and amends independent claim 11 to advance the prosecution. The rejections directed to claims 1-6 are thus obviated by the claim cancellation. The only rejection that remains to be addressed is that directed to claim 11.

#### **Pasqualini’s teachings do not anticipate the present claims**

The rejection to independent claim 11 is obviated by the foregoing amendments. The Office rejects the present claims before the amendments over Pasqualini’s teachings only because the former allegedly could result from the latter with a certain “number of additions, deletions, or substitutions to the polypeptide recited in (c)” (Office Action, p. 10; such recitation is removed from the amended claim 11. As a result of the foregoing amendments, nowhere does Pasqualini disclose a polypeptide of an amino acid sequence of any of SEQ ID NOs: 1 and 3 to 12, as recited in present claim 11. Because Pasqualini does not disclose each and every element recited in independent claim 11, Pasqualini’s teachings cannot anticipate claim 1, or its corresponding dependent claims.

Rodriguez teachings do not anticipate the present claims

The Office rejects present independent claim 11 solely because Rodriguez allegedly discloses the presently claimed SEQ ID NO.: 2. Merely to advance the prosecution of the present application towards allowance, SEQ ID NO. 2 is deleted from claim 11. As a result of the amendment, Rodriguez does not disclose each and every element recited in independent claim 11; thus Rodriguez's teachings cannot anticipate claim 11, or its corresponding dependent claims.

Present methods claims are patentable over Pasqualini's and Rodriguez's teachings

Present claims 23, 25, and currently withdrawn claims 26-30 are only objected to because of informalities and they are not rejected over Pasqualini's and Rodriguez's teachings. As a result of the foregoing amendments, the Applicant respectfully submits that these claims are patentable. Specifically, nowhere does Pasqualini or Rodriguez teach or suggest using the polypeptides recited in present claims 23 and 25-30 as a brain-localizing molecule.

Therefore, at least in view of the foregoing, the Applicant respectfully submits that all of the pending claims recite patentable subject matter and further respectfully requests that the claims in Group V be rejoined with the present claims under examination in accordance with 37 C.F.R. § 1.104.

**IV. Double-Patenting Rejection**

Claims 1-6 and 11 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2, and 5 of co-pending Application No. 12/064,691. The Applicant respectfully submits that the rejection is rendered moot by the foregoing amendments.

**CONCLUSION**

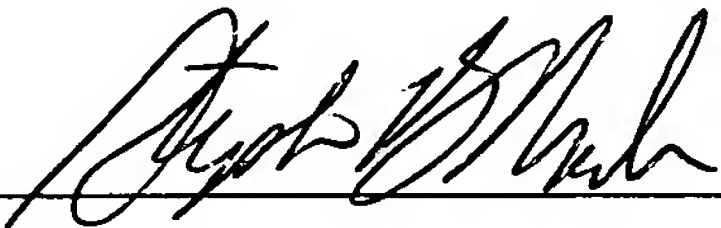
The Applicant believes that the present application is now in condition for allowance and respectfully requests favorable reconsideration of the application.

The Office is invited to contact the undersigned by telephone if a telephone interview would advance the prosecution of the present application.

The Office is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date Dec. 2, 2009

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5569  
Facsimile: (202) 672-5399

Stephen B. Maebius  
Attorney for the Applicant  
Registration No. 35,264